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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,728	09/17/2007	Christopher Gordon Turner	054054/315213	5449
97928	7590	05/16/2012	EXAMINER	
Zebra/Alston & Bird 101 S. Tryon Street Suite 4000 Charlotte, NC 28280-4000			YANG, JAMES J	
			ART UNIT	PAPER NUMBER
			2612	
			NOTIFICATION DATE	DELIVERY MODE
			05/16/2012	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Advisory Action Before the Filing of an Appeal Brief	Application No. 10/597,728	Applicant(s) TURNER ET AL.
	Examiner JAMES YANG	Art Unit 2612

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 May 2012 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.
NO NOTICE OF APPEAL FILED

1. ☒ The reply was filed after a final rejection. No Notice of Appeal has been filed. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114 if this is a utility or plant application. Note that RCEs are not permitted in design applications. The reply must be filed within one of the following time periods:

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action; or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

c) ☐ A prior Advisory Action was mailed more than 3 months after the mailing date of the final rejection in response to a first after-final reply filed within 2 months of the mailing date of the final rejection. The current period for reply expires _____ months from the mailing date of the prior Advisory Action or SIX MONTHS from the mailing date of the final rejection, whichever is earlier.

Examiner Note: If box 1 is checked, check either box (a), (b) or (c). ONLY CHECK BOX (b) WHEN THIS ADVISORY ACTION IS THE FIRST RESPONSE TO APPLICANT'S FIRST AFTER-FINAL REPLY WHICH WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. ONLY CHECK BOX (c) IN THE LIMITED SITUATION SET FORTH UNDER BOX (c). See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) or (c) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendments filed after a final rejection, but prior to the date of filing a brief, will not be entered because

a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

b) ☐ They raise the issue of new matter (see NOTE below);

c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): (a) ☐ will not be entered, or (b) ☒ will be entered, and an explanation of how the new or amended claims would be rejected is provided below or appended.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing the Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

STATUS OF CLAIMS

14. The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-27, 29-33, 35-45.

Claim(s) withdrawn from consideration: _____.

/Brian A Zimmerman/ Supervisory Patent Examiner, Art Unit 2612	/JAMES YANG/ Examiner, Art Unit 2612
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Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 05/07/2012 have been fully considered but are not persuasive.

In response to applicant's argument on Page 13 regarding claim 1 that the Van Eeden reference fails to teach "data lines", the examiner respectfully disagrees. Claim 1 merely recites that a plurality of data line signals are created together to define a random number. Thus, the parts of the transponder disclosed in Van Eeden (see Fig. 2) are used together to generate random inter-transmission intervals (see Van Eeden, Col. 4, Lines 30-39). Therefore, the flow lines in Fig. 2 may be interpreted as data line signals. Furthermore, the claims do not explicitly define that a data line cannot be interpreted as flow lines between parts of a transponder.

In response to applicant's argument on Page 13 regarding claim 1 that the data lines of the claims are all received from the random number generator, the examiner respectfully disagrees. The claims do not inherently nor explicitly define that the data lines are all received from the random number generator. The claims also do not inherently nor explicitly define that the data lines each carry a random number. The claims recite the plurality of data line signals "together defining a random number", not "each data line carries a random number" or similar, as argued by the applicant. Therefore, claim 1 is interpreted as having multiple data lines, in this case flow lines, combined and used to generate a random number.

In response to applicant's argument on Page 14 regarding claim 1 that the Van Eeden reference does not teach the data inputs from the random number generator being fed into the counters, the examiner respectfully disagrees. The applicant again asserts that claim 1 recites the random number generator inputs data directly into the counters, however, the claim does not inherently nor explicitly disclose this feature of the invention. The claim does, however, recite that data lines are fed into the counter for determining the wait period. Thus, because the comparator is fed data from multiple parts, hence data lines, of the transponder for determining the random inter-transmission intervals, the comparator may be interpreted as the applicant's "counter" (see Van Eeden, Col. 4, Lines 30-49).

In response to applicant's argument on Page 14 regarding claim 1 that the Van Eeden reference fails to disclose the interval generation means 34 adjusting the number of data line signals reaching the input of the comparator 40, the examiner respectfully disagrees. As indicated in the rejection filed 02/04/2012 and above, the logic circuitry need only block or permit the data line signals from being received at the comparator. Because signals to the comparator 40 are received from at least a random number and input from a counter (see Van Eeden, Col. 4, Lines 30-39), the interval generation means 34 at the very least enables data line signals to be received at the comparator 40, which is adjusting the number of data line signals.